

Remarks

Applicants thank the Examiner for pointing out the informalities in the May 4, 2009 Amendment. Applicants believe the current replacement amendment corrects those informalities by properly designating claims as Original, Currently Amended, or Previously Presented.

The Examiner requested that this Amendment be accompanied by indications of support in the application. In the Preliminary Amendment filed on February 8, 2005, Applicants simply added the priority claim for this application. In the Preliminary Amendment filed on January 30, 2006, Applicants amended many of the claims to recite "wherein the proxy portfolio does not reveal the fund assets" or equivalent language. This limitation is discussed throughout the specification, for example, at page 18, last full paragraph. Also, claims 74-108 were added. Support for these claims is found in the claims as originally filed and throughout the specification, for example, at page 19, line 8 – page 26, line 17, and more specifically as described below. The Preliminary Amendment filed on November 21, 2006 added claims 109-110. These claims have been canceled. The Amendment of August 15, 2008 canceled the non-elected claims in response to the Restriction Requirement. The Amendment filed January 21, 2009 was not entered. The Amendments to the claims filed on February 26, 2009 should be replaced with the current amendments (although the amendment to the specification should be entered). Support for the current amendments can be found in the claims as originally filed and throughout the specification, for example, at page 19, line 8 – page 26, line 17, and more specifically as described below.

The amendments added few, if any, substantive limitations, but rather simply added clarifying language and a computer to perform many of the method steps. Support for the "traded" fund amendment is found in the specification, for example, at page 12, lines 8-17

(describing various kinds of trading of various kinds of funds, including on primary and secondary markets). Support for using a computer to perform the method steps is found throughout the specification, for example, at page 38, lines 8-22. Support for the limitation that “the identities of the traded fund assets are withheld from an investor who purchases shares of the traded fund” can be found throughout the specification, for example, at page 12, lines 17-21; page 22, lines 16-18; and page 40, lines 11-17.

Interview Summary

Applicants thank Examiners Perry and Kyle for their time during a telephonic interview on May 26, 2009. The Examiners agreed to exercise their discretion to allow the Applicants to submit this supplemental amendment. Applicants’ representative, Michael Stimson, requested review of the current amendment and requested suggestions for further amendments in view of the rejections under §§ 101 and 112. Examiner Kyle suggested removing the “means” from “computer means.” This amendment has been made. Mr. Stimson pointed out that, in response to the rejection under § 112, the claims were amended such that the preamble more closely related to the body of the claim.

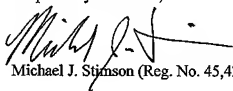
Mr. Stimson pointed out that the Dembo reference did not anticipate because it did not involve a traded fund. Mr. Kyle suggested that the novelty and nonobviousness arguments be presented in a focused written response. Mr. Stimson informed the Examiners that the response of February 26, 2009 included such a written response that addressed the deficiencies of all the prior art cited in the office action of October 31, 2008. Mr. Stimson pointed out that the Baker declaration and the accolades from the industry trade journals were strong secondary indicia of nonobviousness, and requested that Examiner Perry carefully consider the Baker declaration and the accompanying articles. As a further distinction from the prior art, the claims, as currently

amended, recite that “the (proxy/hedging) portfolio does not reveal the traded fund assets and the identities of the traded fund assets are not disclosed to an investor who purchases shares of the traded fund.” No cited prior art discloses this limitation, and therefore the cited prior art cannot form a *prima facie* case of obviousness.

Conclusion

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Stinson", with a long horizontal flourish extending to the right.

Michael J. Stinson (Reg. No. 45,429)

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